

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

| | | |
|------------------------|---|--------------------------------------|
| MICHAEL BROWN, |) | Case No. |
| |) | |
| Plaintiff, |) | PLAINTIFF'S COMPLAINT FOR |
| |) | DAMAGES |
| v. |) | (Unlawful Debt Collection Practices) |
| CHASE BANK, USA, N.A., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| |) | |

COMPLAINT

MICHAEL BROWN ("Plaintiff"), by his attorneys, alleges the following against CHASE BANK USA, N.A. ("Defendant"):

1. Plaintiff brings this action on behalf of himself individually seeking damages and any other available legal or equitable remedies resulting from the illegal actions of Defendant, in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff's cellular telephone in violation of the Telephone Consumer Protection Act (hereinafter "TCPA"), *47 U.S.C. § 227 et seq.*

JURISDICTION AND VENUE

2. Defendant conducts business in the state of Missouri, and therefore, personal jurisdiction is established.

1 3. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and 47 U.S.C. §227(b)(3). See,
2 *Mims v. Arrow Financial Services, LLC*, 132 S.Ct. 740 (2012), holding that federal and
3 state courts have concurrent jurisdiction over private suits arising under the TCPA.

4 4. Venue is proper in the United States District Court for the Eastern District of Missouri
5 pursuant to 28 U.S.C § 1391(b) because Plaintiff resides within this District and a
6 substantial part of the events or omissions giving rise to the herein claims occurred.

7 **PARTIES**

8 5. Plaintiff is a natural person residing in the county of St. Louis, in the city of Fenton,
9 Missouri and is otherwise *sui juris*.

10 6. Defendant is a nationally chartered bank conducting business in Missouri and has its
11 principal place of business in Wilmington, Delaware.

12 7. At all times relevant to this Complaint, Defendant has acted through its agents, employees,
13 officers, members, directors, heir, successors, assigns, principals, trustees, sureties,
14 subrogees, representatives and insurers.

15 **FACTUAL ALLEGATIONS**

16 8. Defendant is a “person” as defined by 47 U.S.C. § 153(39).

17 9. Defendant placed collection calls to Plaintiff seeking and attempting to collect on alleged
18 debts owed by Plaintiff.

19 10. Defendant placed collection calls to Plaintiff’s cellular telephone at phone number (636)
20 343-56XX.

21 11. Defendant placed collection calls to Plaintiff from phone numbers including, but not
22 limited to, (847) 426-9145.
23
24
25

1 12. Per its prior business practices, Defendant's calls were placed with an automated telephone
2 dialing system ("auto-dialer").

3 13. Defendant used an "automatic telephone dialing system", as defined by 47 U.S.C. §
4 227(a)(1) to place its telephone calls to Plaintiff seeking to collect a consumer debt
5 allegedly owed by Plaintiff, MICHAEL BROWN.

6 14. Defendant's calls constituted calls that were not for emergency purposes as defined by 47
7 U.S.C. § 227(b)(1)(A).

8 15. Defendant's calls were placed to a telephone number assigned to a cellular telephone
9 service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §
10 227(b)(1).

11 16. Defendant never received Plaintiff's "prior express consent" to receive calls using an
12 automatic telephone dialing system or an artificial or prerecorded voice on his cellular
13 telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

14 17. On May 29, 2018, at or around 10:43 a.m. Pacific Standard Time, Plaintiff spoke with
15 Defendant's male representative at (847) 426-9145 and requested that Defendant cease
16 calling Plaintiff's cellular phone.

17 18. During the conversation, Plaintiff gave his name, social security number, and mother's
18 maiden name to assist Defendant's representative in accessing his account before asking
19 Defendant to stop calling his cell phone.

20 19. Plaintiff revoked any consent, explicit, implied, or otherwise, to call his cellular telephone
21 and/or to receive Defendant's calls using an automatic telephone dialing system in his
22 conversation with Defendant's representative on May 29, 2018.
23
24
25

1 20. Despite Plaintiff's request to cease, Defendant continued to place collection calls to
2 Plaintiff through August 22, 2018.

3 21. Despite Plaintiff's repeated request that Defendant cease placing automated collection
4 calls, Defendant placed at least Sixty-nine (69) automated calls to Plaintiff's cell phone.

5 **FIRST CAUSE OF ACTION**
6 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**
7 **47 U.S.C. § 227**

8 22. Plaintiff repeats and incorporates by reference into this cause of action the allegations set
9 forth above at Paragraphs 1-21.

10 23. The foregoing acts and omissions of Defendant constitute numerous and multiple
11 negligent violations of the TCPA, including but not limited to each and every one of the
12 above cited provisions of 47 U.S.C. § 227 et seq.

13 24. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff is
14 entitled to an award of \$500.00 in statutory damages, for each and every violation,
15 pursuant to 47 U.S.C. §227(b)(3)(B).

16 25. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct in the future.

17
18 **SECOND CAUSE OF ACTION**
19 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER**
20 **PROTECTION ACT**
21 **47 U.S.C. § 227 et. seq.**

22 26. Plaintiff repeats and incorporates by reference into this cause of action the allegations set
23 forth above at Paragraphs 1-21.

24 27. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing
25 and/or willful violations of the TCPA, including but not limited to each and every one of
the above cited provisions of 47 U.S.C. § 227 et seq.

1 28. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq.,
2 Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every
3 violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

4 29. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct in the future.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, MICHAEL BROWN, respectfully requests judgment be
7 entered against Defendant, CHASE BANK USA, N.A., for the following:

8 **FIRST CAUSE OF ACTION**

9 30. For statutory damages of \$500.00 multiplied by the number of TCPA violations alleged
10 herein (69), \$34,500.00;

11 31. Actual damages and compensatory damages according to proof at time of trial;

12 **SECOND CAUSE OF ACTION**

13 32. For statutory damages \$1,500.00 multiplied by the number of TCPA violations alleged
14 herein (69), \$103,500.00;

15 33. Actual damages and compensatory damages according to proof at time of trial;

16 **ON ALL CAUSES OF ACTION**

17 34. Costs and reasonable attorneys' fees;

18 35. Any other relief that this Honorable Court deems appropriate.

19 **JURY TRIAL DEMAND**

20 36. Plaintiff demands a jury trial on all issues so triable.

21
22 RESPECTFULLY SUBMITTED,

23 Dated: November 8, 2018

24 /s/ Gary Eastman
25 Gary Eastman, #
The Eastman Law Firm
4901 W. 126th St., Suite 240
Leawood, KS 66224

Tel: (913) 908-9113
gary@theeastmanlawfirm.com
Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25